

1 THE HONORABLE MARSHA J. PECHMAN

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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 MARK MOEGLEIN,

11 Plaintiff,

12 v.

13 THE PRUDENTIAL INSURANCE
14 COMPANY OF AMERICA,

Defendant.

Case No. 2:17-cv-00517-MJP

**JOINT STIPULATED MOTION TO
SEAL ADMINISTRATIVE RECORD**

NOTE ON MOTION CALENDAR:
December 5, 2017

15 Pursuant to Federal Rule of Civil Procedure 5.2(e) and Local Civil Rule 5(g), Plaintiff
16 Mark Moeglein and Defendant The Prudential Insurance Company of America hereby stipulate
17 and respectfully ask the Court to authorize the administrative record to be maintained under seal
18 to protect Mr. Moeglein’s privacy interests and sensitive medical information contained in the
19 record.

20 **I. BACKGROUND & ARGUMENT**

21 In this ERISA case, Mr. Moeglein seeks long-term disability benefits under a group
22 insurance policy. The underlying administrative record in this ERISA case is voluminous, and
23 contains extensive medical records and discussion of Mr. Moeglein’s medical conditions.

24 The Western District holds that—although Local Rule 5(g) establishes a “strong
25 presumption in favor of public access to the Court’s files” and the Ninth Circuit recognizes a
26 “strong presumption of public access to documents attached to dispositive motions”—the “need
27 to protect medical privacy qualifies in general as a ‘compelling reason’” to protect medical

1 records and to file them under seal. *Karpenski v. Am. Gen. Life Companies, LLC*, 2013 WL
2 5588312, at *1 (W.D. Wash. Oct. 9, 2013) (quoting LCR 5(g) and *Kamakana v. City and County*
3 *of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006)). In *Karpenski*, Chief Judge Martinez
4 determined the need to protect medical privacy qualifies as a “compelling reason” to grant a
5 motion to seal even under the heightened “compelling reasons” standard applicable in the context
6 of summary judgment motions. *Id.* *Karpenski* recognized that even if a plaintiff has put his
7 health at issue in a lawsuit, he nonetheless remains entitled to the court’s protection of sensitive
8 medical information. *Id.*; see also *Macon v. United Parcel Serv., Inc.*, 2013 WL 951013, at *5
9 (W.D. Wash. Mar. 12, 2013) (granting unopposed motion to seal medical records even where
10 plaintiff failed to comply with LCR 5(g) given the “private nature of the documents at issue”).
11 This approach has been followed by district courts throughout the Ninth Circuit. See, e.g., *G. v.*
12 *Hawaii*, 2010 WL 2607483 (D. Haw. 2010) (granting motion to seal, explaining that “[t]he need
13 to protect medical privacy qualifies as a ‘compelling reason.’”); *Lombardi v. TriWest Healthcare*
14 *Alliance Corp.*, 2009 WL 1212170, at *1 (D. Ariz. 2009) (granting motion to seal documents that
15 “contain sensitive personal and medical information”); see also *Skinner v. Ashan*, 2007 WL
16 708972, *2 (D.N.J. Mar. 2, 2007) (observing that medical records “have long been recognized as
17 confidential in nature”).

18 In this case, compelling reasons to grant this joint motion to seal exist because the
19 administrative record contains extensive private medical records and discussion of Mr.
20 Moeglein’s private medical information. The parties have met and conferred in good faith about
21 the privacy interests at issue, and they agree that sealing the administrative record is appropriate
22 since redaction is not a reasonably feasible alternative due to the high volume of medical records
23 and medical information contained throughout the record. The parties anticipate citing to the
24 administrative record in connection with cross-motions to resolve this case.

25 **II. CONCLUSION**

26 In light of the foregoing, the parties jointly ask the Court to grant this stipulated joint
27 motion to seal and permit the administrative record to be maintained under seal in this case.

1 DATED: December 5, 2017

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3 ROY LAW

4 By s/ Christopher Roy
5 Christopher Roy, WSBA No. 14674
6 chris@roylawpdx.com

7 Attorneys for Plaintiff Mark Moeglein

8 LANE POWELL PC

9
10 By s/ David W. Howenstine
11 D. Michael Reilly, WSBA No. 14674
12 reillym@lanepowell.com
13 David W. Howenstine, WSBA No. 41216
14 howenstined@lanepowell.com

15 Attorneys for Defendant The Prudential Insurance
16 Company of America

17 SEYFARTH SHAW LLP

18 By s/ Christopher Busey
19 Ian Morrison, *Pro Hac Vice*
20 imorrison@seyfarth.com
21 Christopher Busey, *Pro Hac Vice*
22 cbusey@seyfarth.com

23 Attorneys for Defendant The Prudential Insurance
24 Company of America

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DATED this 6th day of December, 2017.

Marsha J. Pechman
United States District Judge